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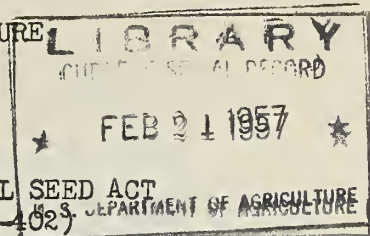
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October 1956

UNITED STATES DEPARTMENT OF AGRICULTURE  
Agricultural Marketing Service  
Grain Division  
Washington 25, D. C.



PROSECUTIONS AND SEIZURES UNDER THE FEDERAL SEED ACT  
(July 1, 1955, to June 30, 1956) (394-402)

394. Alleged false labeling of rye seed. U. S. v. Arthur R. Cone, Inc., Buffalo, New York. Defendant discharged and information dismissed. (FS 758)

Arthur R. Cone, Inc., Buffalo, New York, on July 28, 1952, and August 7, 1952, delivered for transportation in interstate commerce from Buffalo, New York, to two dealers in Ayre, Massachusetts, 20 bags and 31 bags, respectively, of a lot of rye seed.

Information was filed in the United States District Court for the Western District of New York alleging that Arthur R. Cone, Inc. did unlawfully deliver for transportation in interstate commerce the above-mentioned shipments of seed in violation of the Federal Seed Act.

The alleged violations were as follows:

Count I - A shipment of 20 bags of rye seed made on or about July 28, 1952, to Ayre, Massachusetts, was labeled, in part, to indicate the seed had a germination of 75 percent; whereas, a sample representing this seed when tested in October 1952 was found to have a germination of 21 percent.

Count II - A shipment of 31 bags of rye seed made to Ayre, Massachusetts, on or about August 7, 1952, was labeled to indicate the seed had a germination of 75 percent; whereas, a sample representing 26 bags of this seed when tested in September 1952 was found to have a germination of 19 percent and a sample representing 4 bags of this seed when tested in September 1952 was found to have a germination of 20 percent.

On June 1, 1956, the Court discharged the defendant and dismissed the information on the basis of the stipulated facts agreed to between the defendant and the Government. The Court in rendering its opinion made the following statement:

"The Court is of the opinion that the time lapse between the date of shipment out of Buffalo of the rye seed and

the dates of testing, the distance shipped , the extremes in weather, humidity and precipitation, as shown by the Weather Bureau charts, the mode of shipment and handling of the grain leaves a reasonable doubt in the mind of this Court as to the guilt of the defendant for violation of the Federal Seed Act and consequently, the defendant is hereby discharged and the information dismissed."

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395. Unlawful shipment of screenings. U. S. v. 172 bags, more or less, of screenings. (FS 766)

Mitchelhill Seed Company, St. Joseph, Missouri, on February 12, 1954, delivered for transportation in interstate commerce from St. Joseph, Missouri, to Jersey City, New Jersey, 276 bags (11,040 pounds) of Kentucky bluegrass "screenings"

A libel was filed in the District Court of the United States for the District of New Jersey requesting seizure of 172 bags, more or less, of these "screenings" and alleging their shipment in interstate commerce to be in violation of the Federal Seed Act.

This seed was advertised for sale and shipment in interstate commerce and represented to have a pure seed percentage of 11.38 percent and a germination of 65 percent. This would be equal to a pure live seed percentage of approximately 7.40 percent. A sample representing 172 bags of this seed was found to consist, in part, of 18.35 percent pure seed; therefore, even if the pure seed had a germination of 100 percent the seed would have a pure live seed percentage of not more than 18.35 percent.

Section 201(h) of the Federal Seed Act provides that it shall be unlawful for any person to transport or deliver for transportation in interstate commerce screenings of any seed subject to this act unless they are not intended for seeding purposes. The term "screenings" is defined in section 101(a)(22) to include "chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds." 165 bags of the "screenings" were seized by the United States marshal.

On June 14, 1955, 165 bags of the "screenings" were destroyed by burying in the city dump, in compliance with the court order.

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396. False labeling of Korean lespedeza seed. Excessive noxious-weed seeds. U. S. v. 85 bags, more or less, of lespedeza seed. (FS 769)

Ross Seed Company, Louisville, Kentucky, on December 29, 1954, transported in interstate commerce from Louisville, Kentucky, to Norfolk, Virginia, 85 bags of lespedeza seed.

A libel was filed in the District Court of the United States for the Eastern District of Virginia requesting seizure of 85 bags, more or less, of this seed and alleging same to be in violation of the Federal Seed Act.

Labels attached to the bags represented the seed to contain the noxious-weed seed, dodder, at the rate of two per ounce; whereas, a composite sample representing the seed was found to contain dodder seeds at the rate of approximately 10 per ounce and individual bag samples were found to contain dodder seeds at a rate as high as approximately 59 per ounce. Agricultural seed containing in excess of six dodder seeds per ounce is prohibited from sale in the State of Virginia and therefore is prohibited from shipment into that State under the Federal Seed Act. The results of the tests on individual bags also indicated that the seed was not of uniform quality and therefore was not a "lot of seed" as that term is defined under the rules and regulations of the Federal Seed Act. 85 bags of this seed were seized by the United States marshal.

On January 3, 1956, the seed was reblended and relabeled to comply with the Federal Seed Act under the supervision of a representative of the United States Department of Agriculture, in compliance with the court order.

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397. False labeling of lespedeza seed. U. S. v. Jack W. Derryberry Seed Company, Nashville, Tennessee. (FS 776)

Jack W. Derryberry Seed Company, Nashville, Tennessee, on November 20, 1953, delivered for transportation in interstate commerce from Nashville, Tennessee, to Cynthiana, Kentucky, 40 bags of lespedeza seed.

Information was filed in the District Court of the United States for the Middle District of Tennessee alleging that Jack W. Derryberry Seed Company, Nashville, Tennessee, did unlawfully deliver for transportation in interstate commerce the above-identified shipment of seed in violation of the Federal Seed Act.

Labels attached to the bags represented the seed to consist, in part, of 99.04 percent pure seed, 0.14 percent inert matter, and 0.12 percent weed seed and represented the seed to have a germination of 80 percent and 5

percent hard seed or a total germination and hard seed percentage of 85; whereas, the seed was found to consist, in part, of 93.58 percent pure seed, 1.22 percent inert matter, and 5.20 percent weed seed and when tested in February 1954 was found to have a germination of 40 percent with 18 percent hard seed remaining or a total germination and hard seed percentage of 58.

On October 11, 1955, Jack W. Derryberry Seed Company, Nashville, Tennessee, entered a plea of nolo contendere and the Court assessed a fine of \$50.

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398. False labeling of lespedeza seed. Excessive noxious-weed seeds. U. S. v. William G. Scarlett & Company, Baltimore, Maryland. (FS 777)

William G. Scarlett & Company, Baltimore, Maryland, on January 12, 1954, delivered for transportation in interstate commerce from Baltimore, Maryland, to Rocky Mount, Virginia, 33 bags of lespedeza seed. William G. Scarlett & Company, Baltimore, Maryland, on February 18, 1954, delivered for transportation in interstate commerce from Baltimore, Maryland, to Stewartstown, Pennsylvania, one bag of "Maple Permanent Pasture" mixture.

Information was filed in the District Court of the United States for the District of Maryland alleging that William G. Scarlett & Company, Baltimore, Maryland, did unlawfully deliver for transportation in interstate commerce the above-identified shipments of seed in violation of the Federal Seed Act.

Labels attached to the bags of lespedeza seed bore, in part, the statement "Nox. Weeds Per Oz Dodder-3"; whereas, the seed was found to contain dodder seeds at the rate of 62 per ounce.

Agricultural seeds containing in excess of six dodder seeds per ounce is prohibited from sale in the State of Virginia and therefore is prohibited from shipment into that State under the Federal Seed Act.

Labels attached to the bags of "Maple Permanent Pasture" mixture failed to indicate the presence of noxious-weed seeds; whereas, the seed was found to contain the noxious-weed seed, dodder, at the rate of 10 per ounce.

Agricultural seed containing in excess of one dodder seed in five grams of seed of the kinds contained in this mixture is prohibited from sale in the State of Pennsylvania and therefore is prohibited from shipment into that State under the Federal Seed Act.

On January 27, 1956, William G. Scarlett & Company, Baltimore, Maryland, entered a plea of guilty to four counts and the Court assessed a fine of \$300.

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399. False labeling of soybean seed. U. S. v. Blytheville Soybean Corporation, Blytheville, Arkansas. (FS 779)

Blytheville Soybean Corporation, Blytheville, Arkansas, on February 22, 1954, transported in interstate commerce from Blytheville, Arkansas, to Yazoo City, Mississippi, 140 bags of soybean seed and on March 27, 1954, transported in interstate commerce from Blytheville, Arkansas, to Vicksburg, Mississippi, 184 bags of soybean seed.

Information was filed in the District Court of the United States for the Eastern District of Arkansas alleging that the Blytheville Soybean Corporation, Blytheville, Arkansas, did unlawfully deliver for transportation in interstate commerce the above-identified shipments of seed in violation of the Federal Seed Act.

Labels attached to the bags represented the seed in each shipment to have a germination of 80 percent. The seed shipped to Yazoo City, Mississippi, when tested in March 1954 was found to have a germination of 49 percent. The seed shipped to Vicksburg, Mississippi, when tested in April 1954 was found to have a germination of 57 percent.

On November 28, 1955, the Blytheville Soybean Corporation, Blytheville, Arkansas, entered a plea of guilty to two counts and the Court imposed a fine of \$250.

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400. False labeling of bentgrass seed. Excessive noxious-weed seeds. U. S. v. Pacific Supply Cooperative, Inc., Portland, Oregon. (FS 781)

Pacific Supply Cooperative, Inc., Portland, Oregon, on April 29 and May 1, 1953, delivered for transportation in interstate commerce from Portland, Oregon, to Downey, California, 20 bags of bentgrass seed in one lot and 14 bags of bentgrass seed in a second lot.

Information was filed in the District Court of the United States for the District of Oregon alleging that the Pacific Supply Cooperative, Inc., Portland, Oregon, did unlawfully deliver for transportation in interstate commerce the above-identified lots of seed in violation of the Federal Seed Act.

Labels attached to the bags in both shipments represented the seed to contain no noxious-weed seeds. The 20 bag lot was found to contain the noxious-weed seed, Klamath weed, at the rate of 360 per pound. Five bags of the 14 bag shipment were found to contain Klamath weed seeds at the rate of 108 per pound and 9 bags of the 14 bag shipment were found to contain Klamath weed seeds at the rate of 90 per pound. Agricultural seed containing any Klamath weed seeds is prohibited from sale in the State of California and therefore is prohibited from shipment into that State under the Federal Seed Act.

On April 2, 1956, the Pacific Supply Cooperative, Inc., Portland, Oregon, entered a plea of guilty to four counts and the Court imposed a fine of \$120.

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401. False labeling of sorghum seed and failure to maintain a complete record. U. S. v. Roberts Seed Company, Texico, New Mexico. (FS 782)

Roberts Seed Company, Texico, New Mexico, on February 27, 1953, delivered for transportation in interstate commerce from Texico, New Mexico, to Mangum, Oklahoma, 5 bags of sorghum seed.

Information was filed in the District Court of the United States for the District of New Mexico alleging that the Roberts Seed Company, Texico, New Mexico, did unlawfully deliver for transportation in interstate commerce the above-identified shipment of seed in violation of the Federal Seed Act.

The violations were as follows:

Count I - Labels attached to the bags represented the seed to consist, in part, of 98 percent "Atlas" variety of sorghum seed; whereas, this seed when grown was found to be a mixture of Atlas, Norkan-like plants, Pink Kafir, Ellis, and various other varieties and types of sorghum.

Count II - Roberts Seed Company, Texico, New Mexico, failed to keep for a period of three years a complete record of the purity of this lot of sorghum seed and on November 19, 1953, failed to make accessible for inspection by a duly authorized agent of the Secretary of Agriculture a complete record of the purity of said lot of seed in violation of the Federal Seed Act and the rules and regulations thereunder.

On October 21, 1955, the Roberts Seed Company, Texico, New Mexico, entered a plea of guilty to two counts and the Court imposed a fine of \$200 on the first count and \$100 on the second count, making a total fine of \$300.

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402. False labeling of millet seed. U. S. v. 8 bags, more or less, of millet seed. Seed seized and destroyed. (FS 783)

Adams-Briscoe Seed Company, Jackson, Georgia, on May 24, 1955, delivered for transportation in interstate commerce from Jackson, Georgia, to Franklinton, Louisiana, 8 bags of millet seed.



A libel was filed in the District Court of the United States for the District of Louisiana requesting seizure of this seed and alleging same to be in violation of the Federal Seed Act.

Labels attached to the bags represented the seed to have a germination of 84 or 86 percent; whereas, individual bag samples taken from the 8 bags of the seed when tested in July 1955 were found to germinate from 0 to 9 percent. The seed was seized by the United States marshal.

On December 2, 1955, no claimant having appeared, the Court ordered the seed destroyed.

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INDEX, BY SHIPPER, TO PROSECUTION CASES  
UNDER THE FEDERAL SEED ACT, 394-401

<u>Shipper and Kind of Seed</u>	<u>Reference No.</u>
Blytheville Soybean Corporation, Blytheville, Arkansas Soybean .....	399
Arthur R. Cone, Inc., Buffalo, New York Rye .....	394
Jack W. Derryberry Seed Company, Nashville, Tennessee Lespedeza .....	397
Pacific Supply Cooperative, Inc., Portland, Oregon Bentgrass .....	400
Roberts Seed Company, Texico, New Mexico Sorghum .....	401
William G. Scarlett & Company, Baltimore, Maryland Lespedeza and "Pasture Mixture" .....	398

INDEX, BY \*SHIPPER, TO SEIZURE CASES  
UNDER THE FEDERAL SEED ACT, 395-402

<u>*Shipper and Kind of Seed</u>	<u>Reference No.</u>
Adams-Briscoe Seed Company, Jackson, Georgia Millet .....	402
Mitchelhill Seed Company, St. Joseph, Missouri Screenings .....	395
Ross Seed Company, Louisville, Kentucky Lespedeza .....	396

\*The listing of names and addresses of shippers of seed seized under section 405 of the Federal Seed Act is considered to be information pertinent to the issuance of the judgment by the court and does not mean that the shipper was found guilty of violating the Federal Seed Act. The action in seizure cases is against the seed.